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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/766,656

01/27/2004

Robert J. Wright

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EXAMINER

MACDONALD, JASON P

ART UNIT

PAPER NUMBER

3714

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DELIVERY MODE

03/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/766,656	Applicant(s) WRIGHT, ROBERT J.	
	Examiner JASON MACDONALD	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/01/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The examiner acknowledges amendments made to claim 19. Claims 64-75 have been added. Claims 1-75 are currently pending.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-9, 12-21, 24-26, 53-59, 62-64 and 67-75 are rejected under 35 U.S.C. 102(e) as being anticipated by Ghela (US Patent 6,840,857).

Regarding at least claims 1, 2, 8, 9, 13, 14, 20, 21, 25, 26, 53, 58, 59 and 63, Ghela discloses guaranteeing payment of a prize in a game of chance, specifically a ticket lottery (col. 2, lines 37-42), in exchange for a percentage of ticket sales (player purchasing the insured ticket); the guarantee occurs before the revenue because the ticket is marketed as guaranteed (insured) before the purchase; then the operator would receive the revenue or ticket purchase price (col. 2, lines 51-58); the guarantee is effectuated to a jurisdiction, that being the state or organization running the lottery; Ghela discloses this guarantee is insurance which is assuming some form of risk, as all insurance does; regarding the idea of a receiving system for receiving revenue, it is inherent that a sale of anything requires the receiving of a consideration, in this case ticket revenue, on the part of the selling party.

Regarding at least claims 3-5, 15-17 and 54-56, Ghela discloses the prize as being a jackpot (col. 2, line 40), a portion of the jackpot (a portion including 100%); a secondary prize being the additional tax payments (col. 4, line 62- col. 5, line 5).

Regarding at least claims 6, 7, 18, 19 and 57, Ghela discloses that the very concept of a lottery is the prize can be much larger than the revenue collected (col. 1, lines 10-15).

Regarding at least claims 12, 24 and 62, Ghela discloses that this lottery can be conducted with tickets purchased at some point of sale (col. 1, lines 10-15).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 35, 36, 40-44, 65 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghela (US Patent 6,840,857).

Regarding claims 35, 36 and 40-44, Ghela discloses all of the claimed limitations as described above in a manual fashion. According to MPEP 2144.04 III and *In re Venner*, the court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art.

Regarding claims 65 and 66, Ghela fails to explicitly disclose offering a prize at a minimum predetermined amount, exceeded if sales of tickets exceed a threshold. However, these features were well known to have been used in lotteries at the time the

invention was made and thus would have been obvious to one of ordinary skill in the art at the time of the invention.

Claims 10, 11, 22, 23, 27-34, 37-39, 60 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghela (US Patent 6,840,857) in further view of Walker et al. (US Patent 6,869,362).

Ghela discloses the limitations of claims 1, 14, 26 and 53 as above. Ghela does not explicitly disclose a video lottery terminal, connection to the Internet, poker, blackjack, slot machines, casinos, or wide or local area networks. Walker discloses these features at column 1, lines 22-36 and column 4, line 64 through column 5, line 7. It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the features of Walker with Ghela in order to incorporate more games of chance as taught by Ghela (col. 1, lines 11-12).

Claims 45-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (US Patent 6,869,362) in view of Ghela (US Patent 6,840,857).

Walker discloses transmitting a guarantee over a network, that guarantee is in exchange for a percentage of a wager, specifically whatever percentage of the wager constitutes the insurance (Abs, fig. 1, 2 and 10A); an item that receives the guarantee (fig. 13, features 1330 and 1355), and an item that performs a game of chance for the player in a gaming machine (fig. 1); local and wide networks as well as the internet (col. 4, line 64- col. 5, line 7). Walker fails to specifically disclose guaranteeing a prize but

instead insuring losses, although based on publicly held rates of return insuring a loss could be thought of as guaranteeing a win. Ghela specifically discloses guaranteeing that a prize will be paid. It would have been obvious to combine this concept from Ghela with the insurance system in Walker. Both are systems that distribute risk, specifically here in who pays what prizes. By combining the systems Walker would better be able to protect certain customer assets while still improving revenue as taught extensively throughout both Ghela and Walker.

Response to Arguments

Applicant's arguments filed October 15, 2007 and November 12, 2007 have been fully considered but they are not persuasive. Specifically, applicant argues that while Ghela describes the purchase of a single insured ticket, this fails to disclose the limitations of ticket sales prior to revenue wherein a percentage of sales revenue is collected for insurance. The examiner finds that when taken in aggregate, the method described by Ghela is able to teach the limitations of the applicant's invention. Ghela references the sale of multiple tickets several times (col. 2, lines 34-37; col. 7, lines 19-21). Ghela describes the method used to purchase insurance on a single ticket as that is the smallest atomic unit in which the method is able to function, and thus allows this to scale across an entire lottery. That is to say a percentage of the price of a ticket taken one ticket at a time and added cumulatively is equivalent to the percentage of the price of all tickets sold in total. Additionally, the fee paid as insurance is, in effect, always a percentage of ticket sales revenue and must necessarily occur prior to the

collection of said revenue. Ghela describes this amount as possibly sufficient to cover Federal income taxes on the prize amount (col. 4, line 62- col. 5, line 6), and it is well known that these taxes would be derived from a percentage of some amount. Ghela further describes that the opportunity to opt in for such insurance may be up to the operator of the lottery (col. 5, lines 14-20). Thus Ghela discloses that such insurance may be mandatory as part of the ticket purchase and that such details are left to the preference of the operator. When considering, as argued above, that the amount of insurance collected one ticket at a time is equivalent to the amount collected from the total ticket sales revenue, the lottery as described by Ghela also satisfies the limitation that the lottery game is established upon receipt of the guarantee, for as per preference of the lottery operator, no ticket may be purchased without insurance included in its ticket price.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON MACDONALD whose telephone number is (571)270-3218. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/
Supervisory Patent Examiner, Art Unit 3714

/J. M./
Examiner, Art Unit 3714